IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE THE CHIEF JUSTICE MR.V.K.BALI
&
THE HONOURABLE MR. JUSTICE M.RAMACHANDRAN

TUESDAY, THE 23RD JANUARY, 2007 / 3RD MAGHA, 1928

WA.No. 95 of 2007()

(AGAINST JUDGMENT DTD.8.11.2006 IN WP(C) NO.29339/2006)

APPELLANT/PETITIONER IN WP(C):

P.P.IBRAHIM, S/O.ALUPPI HAJI,
SAREENA MANZIL, MANAKKAL, KAVANI P.O. MATTANNUR,
KANNUR DISTRICT.

BY ADV. SRI.A.K.ABDUL AZEEZ

RESPONDENTS/RESPONDENTS IN WP(C):
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1. THE R.T.A.
KANNUR REPRESENTED BY ITS SECRETARY.

2. THE SECRETARY,
R.T.A.KANNUR.

3. THE S.T.A.T. ERNAKULAM.

BY GOVT. PLEADER SRI.T.B.HOOD.

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 16/01/2007,

THE COURT ON 23/01/2007 DELIVERED THE FOLLOWING:

V.K.BALI,C.J. & M. RAMACHANDRAN, J.

W.A. No. 95 of 2007

Dated this the 23rd day of January, 2007.

J U D G M E N T

Ramachandran, J.

The appellant is the owner of a stage carriage and according to him, had applied for a regular permit for operation in the district of Kannur. However, according to him, the permit was granted not in compliance with the request and a condition had been imposed which would have been inconvenient for him. He claims, he knew about it when the timings were prepared. A writ petition (W.P.(C) No.30624 of 2005) filed was dismissed with right to move the State Transport Appellate Tribunal by way of revision. The above revision was dismissed and the timings issued were to remain. The Tribunal had also indicated that the grant with the condition was not challenged and the revision petition was not maintainable. The next writ petition (W.P(C) No.29339 of 2006) filed was dismissed by the learned Judge holding that the view as above taken is unexceptionable since he had not chosen to challenge the

order of the S.T.A.T. It was not possible for him to rake up the contentions on principles akin to constructive res judicata. Mr.Azeez, counsel appearing for the appellant submits that the learned Judge has a duty to consider the intention of the Act in the matter of issuing permits liberally and the remedy ought to have been granted. But, that is not a justification for contending that the order need to have been challenged in part. The error goes to the root of the issue.

The appeal is therefore dismissed.

V.K.Bali
Chief Justice

M. Ramachandran
Judge

Mbs/